

Bureau of Land Management, Interior

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pursuant to State law or not in anticipation of reclaiming the lands and procuring title under the Carey Act but in anticipation of initiating some kind of a claim to the land on its restoration because of failure of the project or cancellation of the segregation.

(d) *Persons not qualified.* The Act of February 14, 1920, does not apply to cases where the applicant's entry has been canceled by the State or forfeited for failure to perfect the entry according to State law, unless the failure is the result of conditions which culminated in the elimination of the lands from the project if the State has allowed a subsequent entry for the same lands, this shall be conclusive evidence that the default was the fault of the State entryman whose entry was forfeited or canceled.

§ 2613.3 Allowance of preference right.

If a person's application is approved, such person shall have 90 days to submit an application for entry under another land law, and shall be entitled to a preference right of entry under other law if and when the lands are determined to be suitable for entry under such law pursuant to the regulations found in part 2400 of this chapter.

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AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

Subpart 2621—Indemnity Selections

§ 2621.0–2 Objectives and background.

Generally, grants made by Statehood Acts to the various States of school sections 16 and 36, and in addition, sections 2 and 32 in Arizona, New Mexico, and Utah, attach to a school sections on the date of acceptance or approval of the plat of survey thereof. If the acceptance or approval was prior to the granting act, or to the date of admission of the State into the Union, the grant attaches either on the date of approval of the act or the date of admission into the Union, whichever is the later date. However, if on the date the grant would otherwise attach, the land is appropriated under some applicable public land law, the grant does not attach, and the State is entitled to indemnity therefor as provided in the regulations in this subpart.

[35 FR 9607, June 13, 1970]

§ 2621.0–3 Authority.

(a) Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), referred to in §§ 2621.0–3 to 2621.4 of this subpart as *the law*, authorize the public land States except Alaska to select lands (or the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States

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of all minerals, or any specified mineral or minerals, which interest is referred to in §§ 2621.0-3 to 2621.4 as the *mineral estate*) of equal acreage within their boundaries as indemnity for grant lands in place lost to the States because of appropriation before title could pass to the State or because of natural deficiencies resulting from such causes as fractional sections and fractional townships.

(b) The law provides that indemnity for lands lost because of natural deficiencies will be selected from the unappropriated, nonmineral, public lands, and that indemnity for lands lost before title could pass to the State will be selected from the unappropriated, public lands subject to the following restrictions:

(1) No lands mineral in character may be selected except to the extent that the selection is made as indemnity for mineral lands.

(2) No lands on a known geologic structure of a producing oil or gas field may be selected except to the extent that the selection is made as indemnity for lands on such a structure.

(c) The law also provides that lands subject to a mineral lease or permit may be selected, but only if the lands are otherwise available for selection, and if none of the lands subject to that lease or permit are in producing or producible status. It permits the selection of lands withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur and lands withdrawn by Executive Order 5327 of April 15, 1930, if such lands are otherwise available for, and subject to, selection: *Provided*, That except where the base lands are mineral in character, such minerals are reserved to the United States in accordance with and subject to the regulations in subpart 2093. Except for the withdrawals mentioned in this paragraph and for lands subject to classification under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315f), as amended, the law does not permit the selection of withdrawn or reserved lands.

(d) Subsection (b) of the section 2276 of the Revised Statutes, as amended, sets forth the principles of adjustment

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where selections are made to compensate for deficiencies of school lands in fractional townships.

[35 FR 9607, June 13, 1970]

§ 2621.1 Applications for selection.

(a) Applications for selection must be made on a form approved by the Director, and must be accompanied by a petition on a form approved by the Director properly executed. However, if the lands described in application have been already classified and opened for selection pursuant to the regulations of this part, no petition is required.

(b) Applications for selection under the law will be made by the proper selecting agent of the State and will be filed, in duplicate, in the proper office in the State or for lands or mineral estate in a State in which there is no office, will be filed in accordance with the provisions of § 1821.2 of this chapter.

(c) Applications must be accompanied by the following information:

(1) A reference to the Act of August 27, 1958 (72 Stat. 928), as amended.

(2) A certificate by the selecting agent showing:

(i) All facts relative to medicinal or hot springs or other waters upon the selected lands.

(This provision does not apply insofar as the application involves the selection of the mineral estate.)

(ii) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands or mineral estate.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

(d) In addition to the requirements of paragraph (c) of this section, applications for selection must conform with the following rules:

(1) The selected land and base lands must be described in accordance with the official plats of survey except that unsurveyed lands will be described in